

STATE OF SOUTH CAROLINA

(Caption of Case)

APPLICATION OF
NEXUS COMMUNICATIONS, INC.
FOR CERTIFICATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2008 - 275 - C

(Please type or print)

Submitted by: Angela Janssen

SC Bar Number: _____

Address: 1720 Windward Concourse, Suite 115
Alpharetta, Georgia 30005

Telephone: (678) 775-225

Fax: (678) 775-119

Other: _____

Email: ajanssen@telecomcounsel.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

- ☐ Emergency Relief demanded in petition ☐ Request for item to be placed on Commission's Agenda expeditiously
- ☐ Other: _____

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)			
<input type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request	
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification	
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation	
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement	
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment	
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter	
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response	
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery	
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition	
<input checked="" type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation	
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input checked="" type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena	
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff	
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other: <u>OK D. Duke</u>	
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest		
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit		
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report		

Lance J.M. Steinhart, P.C.

Attorney At Law
1720 Windward Concourse
Suite 115
Alpharetta, Georgia 30005

Also Admitted in New York
and Maryland

Telephone: (770) 232-9200
Facsimile: (770) 232-9208

September 24, 2008

VIA OVERNIGHT DELIVERY

Mr. Charles Terreni
Chief Clerk of the Commission
South Carolina Public Service Commission
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29210
(803) 896-5100

Re: Nexus Communications, Inc.
Docket No. 2008-275-C

Dear Mr. Terreni:

Pursuant to letter dated July 24, 2008 in the above-referenced docket, enclosed please find for filing an original and twenty-five (25) copies of the company's pre-filed testimony.

I have enclosed an extra copy of this letter to be date-stamped and returned to me in the self-addressed, postage prepaid envelope I have provided.

If you have any questions or if I may provide you with any additional information, please do not hesitate to contact me.

Respectfully submitted,


Lance J.M. Steinhart
Attorney Nexus Communications, Inc.

cc:

Lessie Hammonds – ORS via e-mail: lhammon@regstaff.sc.gov

Nanette Edwards – ORS via e-mail: nsedwar@regstaff.sc.gov

Scott Elliott via e-mail: selliott@elliottlaw.us

Jackie Livingston via e-mail: jlivingston@elliottlaw.us

RECEIVED
2008 SEP 25 PM 1:01
SC PUBLIC SERVICE
COMMISSION

DOCKET NO. 2008-275-C

**DIRECT TESTIMONY
OF STEVEN FENKER:**

1 **Q: PLEASE STATE YOUR NAME, YOUR POSITION WITH NEXUS**
2 **COMMUNICATIONS, INC. AND YOUR BUSINESS ADDRESS.**

3 **A:** My name is Steven Fenker. My title is President of Nexus Communications, Inc.
4 (hereinafter sometimes referred to as “Nexus”). My business address is 3629
5 Cleveland Avenue, Suite C, Columbus, Ohio 43224.

6 **Q: PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR BACKGROUND**
7 **AND EXPERIENCE.**

8 **A:** My background combines 20 years in telecommunications services and
9 telecommunications business development. I am responsible for executing
10 agreements between Nexus and the various ILECs while working closely with the
11 various state and federal regulatory agencies to ensure ongoing regulatory
12 compliance. Attached hereto as Exhibit A is a copy of my resume.

1

2 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

3 **A:** The purpose of my testimony is to demonstrate that Nexus meets the state and
4 federal requirements for designation as an Eligible Telecommunications Carrier
5 (“ETC”) in the State of South Carolina in the designated areas of
6 BellSouth/AT&T service territory (the “Designated Service Area”). A List of
7 Wire Centers is attached as Exhibit 1 to our application filed in this Docket.

8 **Q: DOES NEXUS CURRENTLY PROVIDE TELECOMMUNICATIONS**
9 **SERVICE IN SOUTH CAROLINA?**

10 **A:** Yes. Nexus was granted a Certificate of Public Convenience and Necessity to
11 Provide Competitive Resold Local Exchange Telecommunications Services
12 within the State of South Carolina Pursuant to Order No. 2004-421 issued in
13 Docket No. 2004-59-C on September 3, 2004. Nexus is also a common carrier as
14 that term is defined in 47 U.S.C. §153(10), and Nexus meets the requirements of
15 47 U.S.C. § 214(e)(1).

16 **Q: DOES NEXUS CURRENTLY CONTRIBUTE TO THE FUNDING FOR**
17 **UNIVERSAL SERVICE?**

18 **A:** Yes. Federal regulations require carriers such as Nexus to contribute a portion of
19 their revenues to the funding of federal universal service.

1

2 **Q: IS THE COMPANY PRESENTLY ABLE TO DRAW FROM FEDERAL**
3 **UNIVERSAL SERVICE FUNDS FOR THE PROVISION OF THE**
4 **SUPPORTED SERVICES IN SOUTH CAROLINA?**

5 **A:** No. Until it is designated as an ETC for those areas it serves in South Carolina,
6 Nexus is not able to receive any federal universal service funds to support its
7 provision of universal services to South Carolina consumers.

8 **Q: BY OBTAINING ETC DESIGNATION, WILL NEXUS IMPROVE THE**
9 **QUALITY OF BASIC SERVICE PROVIDED TO SOUTH CAROLINA**
10 **RESIDENTS?**

11 **A:** Yes. As required, if Nexus receives ETC designation, any universal service
12 funding it receives will be used only to support the provision, upgrading and
13 maintenance of Nexus's residential network where Nexus is designated as an ETC
14 in South Carolina. As a result, Nexus will be able to improve the quality of basic
15 service by increasing the availability of this unique service to customers who
16 reside in areas of the state where the service is currently unavailable and, due to
17 credit and deposit requirements, may not be able to obtain the safety and
18 convenience of telephone service from traditional providers.

19

20 **Q: WILL NEXUS'S CUSTOMERS EXPERIENCE OTHER BENEFITS AS A**
21 **RESULT OF NEXUS'S DESIGNATION AS AN ETC?**

22 **A:** Yes. Since Nexus is seeking only low income support, and Lifeline is designed
23 to reduce the monthly cost of telecommunications services for eligible consumers,

1 and is distributed on a per-customer basis and is directly reflected in the price that
2 the eligible customer pays, it is assured that all support received by the carrier is
3 used to provide Lifeline services to consumers, thus promoting Lifeline and the
4 availability of telephone service to low income users, which is clearly in the
5 public interest.

6 **Q: IS A COMPETITIVE LOCAL EXCHANGE CARRIER LIKE NEXUS**
7 **ELIGIBLE FOR FEDERAL UNIVERSAL SERVICE SUPPORT?**

8 **A:** Yes. Both the 1996 Telecommunications Act ("TA'96") and the FCC's rules
9 establish the directives for the Commission to follow in making an ETC
10 designation. Section 214(e) of TA'96 specifically provides that any common
11 carrier, including a competitive local exchange carrier such as Nexus, may be
12 designated as an ETC for federal universal service support purposes, provided
13 that carrier meets the specific criteria set forth in Section 214(e)(1) of the Act,
14 which Nexus does.

15 **Q: WHAT ARE THE REQUIREMENTS FOR OBTAINING ETC**
16 **DESIGNATION?**

17 **A:** The eligibility requirements were recently supplemented by the FCC. The initial
18 requirements established by §214(e)(1) of the Act are still in place, and state:
19 A common carrier designated as an eligible telecommunications carrier under
20 paragraph (2) or (3) shall be eligible to receive universal service support in
21 accordance with section 254 and shall, throughout the service area for which the
22 designation is received:

1
2 (A) Offer the services that are supported by Federal universal service support
3 mechanisms under Section 254(c), either using its own facilities or a combination
4 of its own facilities and resale of another carrier's services (including the services
5 offered by another eligible telecommunications carrier); and

6
7 (B) Advertise the availability of such services and the charges therefore using
8 media of general distribution.

9
10 **Q: IS NEXUS REQUESTING DESIGNATION IN THIS PROCEEDING FOR**
11 **THE STUDY AREA OF ANY RURAL LEC IN SOUTH CAROLINA?**

12 **A:** No. Nexus's Petition requests designation only in the wire centers of
13 BellSouth/AT&T which have been classified as non-rural.

14 **Q: DOES NEXUS CURRENTLY HAVE INTERCONNECTION**
15 **AGREEMENT WITH BELL SOUTH/AT&T?**

16 **A:** Yes.

17 **Q: IS IT YOUR UNDERSTANDING THAT NEXUS IS ENTITLED TO BE**
18 **DESIGNATED AS AN ETC IF IT DEMONSTRATES THAT IT IS**
19 **CAPABLE OF MEETING ALL OF THE OBLIGATIONS IMPOSED BY**
20 **SECTION 214(e) OF TA'96 AS WELL AS THE NEW REQUIREMENTS**
21 **ESTABLISHED BY THE FCC'S MARCH, 2005 ORDER?**

22 **A:** Yes. Nexus has also attached as Exhibit B an Affidavit in support of its
23 requirements for designation as an Eligible Telecommunications Carrier.

1 **Q: THE FIRST CRITERION FOR ETC DESIGNATION UNDER SECTION**
2 **214(e)(1) IS COMMON CARRIER STATUS. IS NEXUS A COMMON**
3 **CARRIER?**

4 **A:** Yes. Nexus is a "common carrier" for purposes of obtaining ETC designation
5 under 47 U.S.C. § 214(e)(1). A common carrier is generally defined in 47 U.S.C.
6 §153(10) as "any person engaged as a common carrier for-hire" in interstate or
7 foreign communications utilizing either wire or radio technology, except for radio
8 broadcasters.

9 **Q: THE SECOND REQUIREMENT IS THAT NEXUS OFFER THE**
10 **"SUPPORTED SERVICES." WHAT ARE THE SUPPORTED SERVICES**
11 **THAT MUST BE OFFERED?**

12 **A:** The FCC has identified (at 47 C.F.R. §54.101(a)) the following services and
13 functionalities as the core services to be offered by an ETC and supported by
14 federal universal service support mechanisms:

- 15 1. voice-grade access to the public switched network;
- 16 2. local usage;
- 17 3. dual tone multi-frequency signaling or its functional equivalent;
- 18 4. single-party service or its functional equivalent;
- 19 5. access to emergency services;
- 20 6. access to operator services;
- 21 7. access to interexchange services;
- 22 8. access to directory assistance;
- 23 9. toll limitation for qualifying low-income consumers

1 **Q: CAN NEXUS CURRENTLY PROVIDE THE SUPPORTED SERVICES**
2 **SET FORTH ABOVE USING ITS NETWORK THAT IS IN PLACE**
3 **TODAY?**

4 **A:** Yes. Nexus's present network can provide all of the supported services to
5 consumers in South Carolina. Nexus recognizes its obligation to offer these
6 services including the "toll limitation for qualifying low-income consumers"
7 service that is linked to the federal "Lifeline" program and targeted at meeting the
8 needs of low-income consumers. Nexus, however, cannot participate in the
9 federal Lifeline program until it receives its ETC designation. Once Nexus
10 receives ETC designation it will provide toll limitation as required by the FCC's
11 rules.

12 **Q: COULD YOU EXPLAIN EACH OF THE SUPPORTED SERVICES AND**
13 **HOW NEXUS PROVIDES, OR WILL PROVIDE THESE SERVICES?**

14 **A:** Yes. Nexus presently provides or plans to provide each of the supported services
15 identified by the FCC in 47 C.F.R. § 54.101(a) as follows:

- 16
- 17 a. *Voice-grade access to the public switched telephone network.* The
18 FCC has concluded that voice grade service means the ability to make and
19 receive phone calls, within a specified bandwidth and frequency range.
20 Nexus meets this requirement by providing voice-grade access to the
21 public switched telephone network. Through its interconnection
22 agreements, all customers of Nexus are able to make and receive calls on
23 the public switched telephone network within the specified bandwidth.

1 b. *Local usage.* ETCs must include local usage beyond providing
2 simple access to the public switched network as a part of a universal
3 service offering. Nexus includes specified quantities of usage in its rate
4 plans and thereby complies with the requirement. It is important to note,
5 that currently, there is no specific rule that requires an ETC to include any
6 particular amount of local usage, although all of Nexus' service offerings
7 include unlimited local calling.

8 c. *Dual-tone, multi-frequency ("DTMF") signaling or its functional*
9 *equivalent.* DTMF, more commonly known as touch-tone, is a method of
10 signaling that facilitates the transport of call set-up and detail information.
11 Through its interconnection agreements, Nexus provides DTMF signaling
12 to its customers, which is the equivalent of that offered by the incumbent
13 LECs to its customers.

14 d. *Single-party service or its functional equivalent.* Nexus meets the
15 requirement of single-party service by providing a dedicated message path
16 for the length of all customer calls.

1
2 e. *Access to emergency services.* The ability to reach a public
3 emergency service provider by dialing 911 is a requirement in any
4 universal service offering. Nexus currently provides its subscribers access
5 to 911 emergency service in accord with this requirement, and consistent
6 with FCC Regulations throughout the service area for which designation
7 is sought. Nexus also provides Enhanced 911 services including Phase I
8 and Phase II E911 services where requested by local public safety
9 authorities ready to receive the information and where the local exchange
10 carrier supports such services.

11 f. *Access to operator services.* Access to operator services is defined
12 as any automatic or live assistance provided to a consumer to arrange for
13 billing or completion, or both, of a telephone call. Nexus currently
14 provides access to operator services through a 1-800 calling service.
15 Customers can also obtain 1+ service through a third party provider to
16 access such services.

17 g. *Access to directory assistance.* Much like operator services, Nexus
18 currently offers access to directory assistance services through a 1-800
19 calling service. Customers can also obtain 1+ service through a third
20 party provider to access such services.

21 h. *Access to interexchange service.* Nexus meets the requirements of
22 access to interexchange service by providing all of its customers with the
23 ability to make and receive interexchange calls through 1+800 calling

1 services provided by third party LD carriers. Additionally, customers can
2 obtain 1+ services through a third party provider, and are able to reach
3 their IXC of choice by dialing the appropriate access code.

4 i. *Toll limitation for qualifying low-income consumers.* As
5 previously mentioned, toll limitation for qualifying low-income
6 consumers is linked to participation in the Lifeline program, which Nexus
7 will participate in and offer upon designation as an ETC. 47 CFR §
8 54.400(d) defines Toll Limitation” as either toll blocking *or* toll control
9 for telecommunications carriers that are incapable of providing both
10 services. At this time, Nexus does offer toll control. Per the requirements
11 of 47 CFR § 54.400(d) Nexus will provide eligible Lifeline subscribers
12 with the ability to subscribe to toll blocking, at no additional charge,
13 which restricts the dialing of toll billed calls while permitting local calls,
14 and non-chargeable calls to company numbers such as repair service,
15 emergency numbers (911) and 800 dialing.

1

2 **Q: DOES NEXUS OFFER THE ABOVE-REFERENCED SUPPORTED**
3 **SERVICES VIA ITS OWN FACILITIES OR A COMBINATION OF ITS**
4 **OWN FACILITIES AND RESALE OF ANOTHER CARRIER'S**
5 **SERVICES?**

6 **A:** Depending on the type of service the customer requests and the precise location of
7 the customer, Nexus offers the supported services either through the purchase of
8 switched port/loop combinations Unbundled Network Elements (UNEs) or
9 through resale of another carrier's services. Consistent with the requirements of
10 47 CFR. § 201(e), these facilities are physical components of the
11 telecommunications network that are used in the transmission or routing of the
12 services for which support is requested. Because these facilities include
13 unbundled network elements, they meet the FCC's definition of "own facilities"
14 established in 47 CFR § 201(f) and thereby make the method by which Nexus
15 provisions the supported services consistent with the FCC's rules found at 47
16 CFR § 54.201(d)(1) through (i).

17 **Q: WILL NEXUS PROVIDE SUPPORTED UNIVERSAL SERVICES ONCE**
18 **DESIGNATED AS AN ETC?**

19 **A:** Yes. Nexus will provide all supported universal services once designated as an
20 ETC.

1

2 **Q: WILL NEXUS PARTICIPATE IN THE LIFELINE AND LINK-UP**
3 **PROGRAMS IF IT IS DESIGNATED AS AN ETC?**

4 **A:** Yes, as we stated in our Petition, upon designation as an ETC, Nexus will
5 participate in, and offer, LifeLine and Link-Up programs to qualifying low-
6 income consumers and publicize the availability of Lifeline and Link-Up services
7 in a manner reasonably designed to reach those likely to qualify for those
8 services, as required by 47 C.F.R. §§ 54.401-54.417; 54.405(b)& 54.411(d).

9 **Q: A THIRD REQUIREMENT FOR DESIGNATION AS AN ETC IS TO**
10 **ADVERTISE THE AVAILABILITY OF THE SUPPORTED SERVICES.**
11 **HOW DOES NEXUS INTEND TO ADVERTISE THE AVAILABILITY OF**
12 **THE SUPPORTED SERVICES?**

13 **A:** Nexus advertises the availability of the supported services and the corresponding
14 charges in a manner that informs the general public within the designated service
15 area of both the services available and the corresponding charges. Nexus
16 advertises its services through several different media of general distribution
17 including (but not limited to) marketing at targeted retail locations as well as
18 advertisements via television, radio, newspapers and various free publications
19 target at low-income consumers such as the “Dollar Saver”. In addition, Nexus
20 will comply with the requirements of 103-690(C) of the Commissions rules,
21 which states that “carriers seeking certification in areas not eligible for High Cost
22 Support from the USF, but seeking ETC designation for the purpose of
23 participation in the Lifeline and Link Up programs...shall submit a two-year plan

1 that describes the carrier's plans for advertising and outreach programs for
2 identifying, qualifying, and enrolling eligible participants in the Lifeline and link
3 Up programs". This plan will be made available upon request.

4 **Q: IS NEXUS ABLE TO SATISFY EACH OF THE ADDITIONAL**
5 **REQUIREMENTS ESTABLISHED IN THE FCC'S MARCH 17, 2005**
6 **ORDER?**

7 **A:** Yes. Nexus will provide each of the supported services identified in 47 C.F.R.
8 §54.101 as follows:

9 a. Nexus will commit to provide service throughout its proposed designated
10 service area to all customers making a reasonable request for service. Nexus
11 certifies that it will (a) provide service on a timely basis to requesting customers
12 within the applicant's service area where the applicant's network already passes
13 the potential customer's premises; and (b) provide service within a reasonable
14 period of time, if the potential customer is within Nexus's licensed service area
15 but outside its existing network coverage, if service can be provided at reasonable
16 cost by reselling services from another carrier's facilities to provide service.

17 b. Under FCC guidelines, an ETC Applicant must submit a five-year plan
18 that describes with specificity proposed improvements or upgrades to the
19 applicant's network on a wire center-by-wire center basis throughout its proposed
20 Designated Service Area. The only circumstance warranting deviation from this
21 requirement is where an applicant's requested ETC serving territory would qualify
22 it to receive no "high cost" USF support, but only "low income" USF support.
23 Because Nexus seeks ETC designation solely for purposes of reimbursement for

1 provision of subsidized Lifeline and Link-Up services to eligible customers,
2 submission of a Five-Year Network Improvement Plan is not required at this time.

3 In lieu of this requirement, Nexus will fully comply with the requirements of 103-
4 690(C) and submit, upon request by the Commission, a copy of Nexus' two-year
5 Lifeline and Link Up advertising plan that will describe the company's plans for
6 advertising and outreach campaigns aimed at identifying, qualifying, and enrolling
7 eligible participants in the Lifeline and Link Up programs in areas for which it is
8 certified throughout the State of South Carolina. As Lifeline support is designed
9 to reduce the monthly cost of telecommunications services for eligible consumers,
10 and is distributed on a per-customer basis and is directly reflected in the price that
11 the eligible customer pays, it is assured that all support received by the carrier is
12 used to provide Lifeline services to consumers, thus promoting Lifeline and the
13 availability of telephone service to low income users, which is clearly in the
14 public interest.

15
16 c. Providing service to its customers through resale of another carrier's
17 services or the use of switched port/loop combination UNEs, leased from the
18 ILECs, allows Nexus to provide to its customers the same ability to remain
19 functional in emergency situations as currently provided by the ILECs to their
20 own customers (including access to a reasonable amount of back-up power to
21 ensure functionality without an external power source, rerouting of traffic around
22 damaged facilities, and the capability of managing traffic spikes resulting from
23 emergency situations). Further, by nature of the fact that these services are

1 implicitly included in the rates that Nexus pays to the ILECs, these capabilities
2 are also available to Nexus's customers.

3 d. Nexus will satisfy applicable consumer protection and service quality
4 standards. Under FCC guidelines, an ETC Applicant must demonstrate that it will
5 satisfy applicable consumer protection and service quality standards. 47 CFR
6 §54.202(a)(3); FCC ETC Order at Para 28. Applicant will satisfy all such
7 standards. As part of its certification requirements for providing local exchange
8 services, Applicant must abide by the service quality and consumer protection
9 rules. In addition, Applicant commits to reporting information on consumer
10 complaints per 1,000 lines on an annual basis consistent with the FCC's ETC
11 Order. Applicant in general commits to satisfying all such applicable state and
12 federal requirements related to consumer protection and service quality standards.

13 e. Nexus's offering includes a local usage component with unlimited local
14 calling similar to the ILECs' basic local service offerings. The amount of credits
15 that will be provided to eligible low participating in the lifeline and link-up
16 program, is set forth in proposed tariff revisions, which was attached as Exhibit 2
17 to our Application in this Docket.

1
2 f. Nexus acknowledges that the FCC may require it to provide equal access
3 to long-distance carriers in the event that no other eligible telecommunications
4 carrier is providing equal access within the service area.

5 g. As relevant to the Commission's public interest inquiry, Nexus's presence
6 will undeniably include a benefit of increased customer choice, as Nexus's
7 service offering is unique, and serves a specific sector of the public who might
8 well not otherwise have wire line telephone service.

9 h. Nexus does not seek designation below the study area level of a rural
10 telephone company, and therefore, no "cream skimming" analysis is required.
11 Likewise, Nexus does not seek designation as an ETC for any part of tribal lands.
12 Therefore, the public notice requirements established by the FCC for tribal lands
13 do not apply.

14 **Q: IN WHAT SERVICE AREAS IS NEXUS SEEKING DESIGNATION AS**
15 **AN ETC?**

16 **A:** Pursuant to Section 54.207 of the FCC's rules, a "service area" is a "geographic
17 area established by a state commission for the purpose of determining universal
18 service obligations and support mechanisms." 47 C.F.R. § 54.207(a). For service
19 areas served by non-rural ILECs such as BellSouth/AT&T, there are no
20 restrictions on how a Commission defines the "service area" for purposes of
21 designating a competitive ETC. Nexus proposes a service area consisting of each
22 of the BellSouth wire centers in South Carolina which are set forth in Exhibit 1 to
23 our Application in this Docket.

1

2 **Q: DOES NEXUS PROVIDE TELECOMMUNICATIONS SERVICE**
3 **THROUGHOUT THE NON-RURAL ILEC SERVICE AREAS FOR**
4 **WHICH IT SEEKS ETC DESIGNATION?**

5 **A:** Yes.

6 **Q: BEFORE DESIGNATING NEXUS AS AN ETC, IS THE COMMISSION**
7 **REQUIRED TO FIND THAT THE DESIGNATION IS IN THE PUBLIC**
8 **INTEREST?**

9 **A:** Yes.

10 **Q: HOW, AND IN WHAT TERMS, WILL NEXUS’S PRESENCE AS AN ETC**
11 **IN SOUTH CAROLINA AFFECT THE MARKET AS A WHOLE AND**
12 **THE PUBLIC INTEREST GENERALLY?**

13 **A:** A grant of Nexus's application will serve the public interest and the market as a
14 whole by promoting additional deployment of Nexus’s unique local service. It is
15 important to note that most of Nexus’s customers do not meet the traditional
16 “creditworthiness” test of ILECs and CLECs, and therefore, many are unable to
17 obtain wire line local exchange service. Nexus’s designation as an ETC will
18 bring consumers the benefits of its unique service to a specific segment of the
19 market.
20 Furthermore, A central purpose of the Telecommunications Act of 1996 was to
21 “promote competition and reduce regulation ... [thereby securing] lower prices
22 and higher quality services ... and encourage the rapid deployment of new

1 telecommunications technologies.”¹ Designation of Nexus as an ETC would
2 further these goals. Granting ETC status to Nexus would allow the Company to
3 obtain federal universal service support, which it will use to offer innovative
4 telecommunications services at competitive prices to non-rural consumers in the
5 Designated Service Area.

6 **Q: IF NEXUS’S PETITION IS GRANTED, WILL THERE BE ANY**
7 **FINANCIAL IMPACT ON THE UNIVERSAL SERVICE FUND OR THE**
8 **FEDERAL UNIVERSAL SERVICE FUND SURCHARGE THAT SOUTH**
9 **CAROLINA END USERS PAY?**

10 **A:** No. In fact the amount of support available to an eligible subscriber is exactly the
11 same whether the support is given through a company such as Nexus or the
12 Incumbent LEC operating in the same service area. As such designation of Nexus
13 will not create any financial impact on the Universal Service Fund, the Federal
14 Universal Surcharge that South Carolina end users pay, or an increase to the State
15 or its political subdivisions.

16

17 **Q: HAS NEXUS BEEN GRANTED ETC STATUS BY ANY STATE**
18 **COMMISSIONS?**

19 **A:** Yes, Nexus has been designated as ETC in the States of Nexus was designated as
20 an ETC in the States of Alabama, California, Florida, Illinois, Kansas, Kentucky,
21 Michigan, North Carolina, Oklahoma, Texas and Wisconsin.

¹ The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, 56 (1996).

1

2 **Q: HAS NEXUS BEEN AUDITED BY USAC, OR ANY OTHER ENTITY,**
3 **PERTAINING TO LIFELINE AND LINK-UP?**

4 **A:** No. However, Nexus was selected for a USAC site visit.

5 **Q: DOES NEXUS AGREE TO COMPLY WITH ALL COMMISSION RULES**
6 **AND REGULATIONS REGARDING ETC, INCLUDING THOSE SET**
7 **FORTH IN DOCKET NO. 2006-37-C?**

8 **A:** Yes. Applicant hereby asserts its willingness and ability to comply with all the
9 rules and regulations that the Commission may lawfully impose upon Applicant's
10 provision of service contemplated by this application.

11 Applicant has requested ETC designation in wire centers located throughout, the
12 service area of BellSouth/AT&T South Carolina, a non-rural carrier.

13 Additionally, Applicant has limited its requested USF support to the federal USF
14 low income support program. Applicant certifies that all low income USF
15 funding it receives will be used to provide a credit to its Lifeline and Link-up
16 eligible customers, consistent with 47 CFR 54.403.

1

2 Applicant agrees to include in its quarterly Service Quality Report the number and
3 justification of applications held for more than 30 days and the number and
4 justification of applications that were denied. Nexus will only seek direct low
5 income support from the Federal Universal Service Fund for the those line
6 provided through the use of its own facilities or through a combination of its own
7 facilities and the leased facilities of another carrier. Applicant agrees to utilize
8 the same qualifying criteria for Lifeline and Link-up as is offered in the BellSouth
9 territory (eligibility for TANF, Food Stamps, and Medicaid).

10 Applicant agrees to provide Lifeline customers an additional \$3.50 credit in order
11 that the federal matching monies can be maximized. This will yield a Lifeline
12 credit of \$13.50 per month which is consistent with the credit offered throughout
13 BellSouth service area.

14 Applicant agrees that it will abide by all advertising and reporting and verification
15 requirements established by the FCC and Commission.

1

2 Should Applicant seek designation as an ETC for high cost support, Applicant
3 will file an additional and separate application with the Commission that
4 addresses all applicable state and federal laws, rules and regulations, including,
5 but not limited to, an appropriate build-out plan that includes the use of its own
6 facilities in addition to those obtained through commercial agreements to provide
7 services to un-served areas.

8 Applicant shall submit a two-year plan that describes the carrier's plans for
9 advertising and outreach programs for identifying, qualifying and enrolling
10 eligible participants in the Lifeline and Link Up programs.

11 Applicant shall comply will all applicable state and federal laws, rules, and
12 regulations regarding ETC designation and reporting requirements.

13

14 **Q: DOES THIS CONCLUDE YOUR TESTIMONY?**

15 **A: Yes.**

Exhibit A

STEVEN FENKER

Phone: 740/549-1092

888/366-2750

Fax: 740/548-1173

E-Mail: Sfenker1@earthlink.net

NEXUS COMMUNICATIONS, INC.

PROFESSIONAL EXPERIENCE

Nexus Communications, Inc.	Founder	2000 – 2007
-----------------------------------	----------------	-------------

- Formed Competitive Local Exchange Carrier (CLEC) currently licensed in the states of Alabama, Arkansas, California Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, North Carolina, Ohio, Oregon, Oklahoma, South Carolina, Texas, and Wisconsin providing competitive local residential exchange service.
- Nexus is currently licensed as an Eligible Telecommunications Carrier (ETC) in the states of Alabama, California, Florida, Illinois, Kansas, Kentucky, Michigan, Oklahoma, Texas, and Wisconsin. Nexus has pending CLEC applications in the states of Iowa, Louisiana, Minnesota, and Washington.
- Responsibilities include compliance of governmental mandates, regulatory issues, negotiating commercial agreements with underlying local exchange carriers, and all compliance matters.

Page One, LLC	Founder	1997 – 2000
----------------------	----------------	-------------

- Largest Authorized Wireless Agent for GTE Wireless (now Verizon Wireless), and GTE Agent of The Year, for the years 1997, 1998 and 1999.
- Largest Paging Reseller for Arch Communications, PageNet, Mobilecomm (now Arch Communications) and PageMart (now Weblink Wireless).

EDUCATION/SPECIALIZED TRAINING

Cleveland Marshall College of Law , Cleveland, Ohio	1995
Juris Doctor	

Ohio University , Athens, Ohio	1985
Bachelors of Arts (Cum Laude)	

Exhibit B

AFFIDAVIT

STATE OF OHIO)
) SS.
COUNTY OF FRANKLIN)

I, Steven Fenker, being duly sworn upon oath, do hereby depose and state as follows:

1. My name is Steven Fenker. I am employed by Nexus Communications, Inc. ("Nexus") as President. My business address is 3629 Cleveland Avenue, Suite C, Columbus, Ohio 43224. I am authorized by Nexus to make this Affidavit on its behalf, and it is given upon my personal knowledge. This Affidavit is given in support of the company's application to be designated as an Eligible Telecommunications Carrier in Docket No. 2008-275-C.
2. On behalf of Nexus, I declare the following:
 - (A) Nexus will provide Lifeline and Link-up service in a timely manner throughout its designated service area upon reasonable request of an eligible consumer;
 - (B) Nexus will provide service supported services through its own facilities or a combination of its own facilities and resale of another carrier's services;
 - (C) Nexus will advertise in media of general distribution the availability of lifeline and link-up services and the applicable charges.
 - (D) Nexus will file a two -year advertising and outreach plan as required by the Commission promulgated rules prior to offering Life-Line and Link-up Services in the State of South Carolina.
 - (E) Nexus will provide equal access to long distance carriers.

Steven Fenker
President of Nexus Communications, Inc.

Subscribed and sworn to before me this 23 day of SEP, 2008.

Notary Public

My Commission expires:



MUWAFEK ABDULLAH
Notary Public, State of Ohio
My Commission Expires 04-25-09